

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

**U.S. Bank, National Association, Successor
Trustee to Bank of America, N.A. as
Successor to LaSalle Bank, N.A. as Trustee
for the Merrill Lynch first Franklin
Mortgage Loan Trust, Mortgage Loan
Asset-Backed Certificates, Series 2007-2**

Plaintiff

vs.

Hetty N. Merrill

Defendant

Capital One Bank (USA), N.A.

Party-In-Interest

CIVIL ACTION NO: 2:19-cv-00558-JAW

**JUDGMENT OF FORECLOSURE AND
SALE**

VACANT PROPERTY

**RE:
256 Hanscom Road, Eliot, ME 03903,
York County**

**Mortgage:
March 22, 2007
Book 15114, Page 413**

This matter came before the Court for a testimonial hearing on Plaintiff's Motion for Default Judgment on September 8, 2022. Plaintiff, U.S. Bank, National Association, Successor Trustee to Bank of America, N.A. as Successor to LaSalle Bank, N.A. as Trustee for the Merrill Lynch first Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-2, was present and represented by Reneau J. Longoria, Esq. Defendant, Hetty N. Merrill, was served by publication following diligent efforts to serve in-hand and did not appear; Party-In-Interest, Capital One Bank (USA), N.A. did not appear.

This Court has jurisdiction over this action pursuant 28 U.S.C. § 1332(a)(1) (Diversity) because the Plaintiff, U.S. Bank, National Association, Successor Trustee to Bank of America, N.A. as Successor to LaSalle Bank, N.A. as Trustee for the Merrill Lynch first Franklin Mortgage Loan

Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-2, is a National Association with its principal place of business in the State of Ohio, Party-in-Interest, Capital One Bank (USA), N.A., is a National Association with its principal place of business in the State of Virginia, And Defendant, Hetty N. Merrill resided in Maine when the loan was made is last known to reside in Maine or New Hampshire, and the matter in controversy exceeds the sum or value of seventy-five thousand and 00/100 (\$75,000.00) dollars, exclusive of interest and costs.

All persons interested having been duly notified in accordance with the law, and after hearing, the Plaintiff's Motion for Default Judgment is **GRANTED**. Count II - Breach of Note, Count III - Breach of Contract, Money Had and Received, Count IV - Quantum Meruit, and Count V - Unjust Enrichment are hereby **DISMISSED** without prejudice at the request of the Plaintiff. **JUDGMENT** on Count I – Foreclosure and Sale is hereby **ENTERED** based on the Defendants breach of the Note and Mortgage as follows:

1. If the Defendant or his/her heirs or assigns pay U.S. Bank, National Association, Successor Trustee to Bank of America, N.A. as Successor to LaSalle Bank, N.A. as Trustee for the Merrill Lynch first Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-2 (“U.S. Bank”) the amount adjudged due and owing (\$480,867.61) within 90 days of the date of the Judgment, as that time period is calculated in accordance with 14 M.R.S.A. § 6322, U.S. Bank shall forthwith discharge the Mortgage and file a dismissal of this action on the ECF Docket. The following is a breakdown of the amount due and owing:

Description	Amount
Principal Balance	\$179,376.12
Interest	\$160,195.87
Escrow Advance	\$36,964.97
Corporate Advances	\$65,370.44
Streamline Mods	\$39,000.00
Forbearance	(\$39.79)
Grand Total	\$480,867.61

2. If the Defendant or his/her heirs or assigns do not pay U.S. Bank the amount adjudged due and owing (\$480,867.61) within 90 days of the judgment, as that time period is calculated in accordance with 14 M.R.S.A. § 6322, his/her remaining rights to possession of the Eliot Property shall terminate, and U.S. Bank shall conduct a public sale of the Eliot Property in accordance with 14 M.R.S.A. § 6323, disbursing the proceeds first to itself in the amount of \$480,867.61 after deducting the expenses of the sale, with any surplus to be disbursed pursuant to Paragraph 5 of this Judgment, and in accordance with 14 M.R.S.A. § 6324. U.S. Bank may not seek a deficiency judgment against the Defendant pursuant to the Plaintiff's waiver of deficiency at trial.
3. Upon information and belief, Robert E. Merrill is deceased and his date of death is December 22, 2015.
4. In the event that the Defendant, and anyone occupying the premises, do not vacate the property upon termination of his/her right to possession, U.S. Bank may reopen this matter to seek a Writ of Assistance and/or Writ of Possession to be served by the U.S. Marshals Service pursuant to Federal Rule of Civil Procedure 4.1(a) consistent with this Judgment.
5. Pursuant to 14 M.R.S.A. § 2401(3)(F), the Clerk, if requested, shall sign a certification after the appeal period has expired, certifying that the applicable period has expired without action or that the final judgment has been entered following appeal.
6. The Defendant has breached the terms of the Note and Mortgage and the amount due and owing is \$480,867.61.
7. The priority of interests is as follows:
 - U.S. Bank, National Association, Successor Trustee to Bank of America, N.A. as Successor to LaSalle Bank, N.A. as Trustee for the Merrill Lynch first Franklin

Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-2 has first priority, in the amount of (\$480,867.61), pursuant to the subject Note and Mortgage.

- Capital One Bank (USA), N.A has the second priority behind the Plaintiff pursuant to a Writ of Execution dated April 6, 2009, in the amount of \$3,474.63, and recorded in the York County Registry of Deeds in Book 15639, Page 56.

- Hetty N. Merrill has the third priority behind the Plaintiff.

8. The prejudgment interest rate is 6.10000%, *see* 14 M.R.S.A. § 1602-B, and the post-judgment interest rate is .15%, *see* 28 U.S.C. § 1961.

9. The following information is included in this Judgment pursuant to 14 M.R.S.A. § 2401(3):

	PARTIES	COUNSEL
PLAINTIFF	U.S. Bank, National Association, Successor Trustee to Bank of America, N.A. as Successor to LaSalle Bank, N.A. as Trustee for the Merrill Lynch first Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-2 425 Walnut St. Cincinnati, OH 45202	Reneau J. Longoria, Esq. Doonan, Graves & Longoria, LLC 100 Cummings Center Suite 303C Beverly, MA 01915
DEFENDANT	Hetty N. Merrill (served by publication last known in Eliot) 256 Hanscom Road Eliot, ME 03903	Pro Se

PARTIES-IN-INTEREST

Capital One Bank (USA), N.A. Pro Se
4851 Cox Road
Glen Allen, VA 23060

- a) The docket number of this case is No. 2:19-cv-00558-JAW.
- b) All parties to these proceedings received notice of the proceedings in accordance with the applicable provisions of the Federal Rules of Civil Procedure.
- c) A description of the real estate involved, 256 Hanscom Road, Eliot, ME 03903, York County, is set forth in Exhibit A to the Judgment herein.
- d) The street address of the real estate involved is 256 Hanscom Road, Eliot, ME 03903. The Mortgage was executed by the Defendant, Hetty N. Merrill on March 22, 2007. The book and page number of the Mortgage in the York County Registry of Deeds is Book 15114, Page 413.
- e) This judgment shall not create any personal liability on the part of the Defendant but shall act solely as an *in rem* judgment against the property, 256 Hanscom Road, Eliot, ME 03903.
- f) The period to Appeal this Judgment is thirty (30) days as set forth in Fed. R. App. P. 4(a)(1)(A).

SO ORDERED

Dated this 12th day of September, 2022

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
U.S. DISTRICT JUDGE